



Quarterly update summarising regulatory and legal developments from the last three months in the communications, media and satellite sectors in Europe.

This edition includes contributions from the United Kingdom, Austria, Bulgaria, Germany, Hungary, Italy, Russia, Slovakia, Spain and Switzerland.

United Kingdom

COMMUNICATIONS

Home Office publishes Communications Data Bill

The Home Office has published a draft Communications Data Bill which includes controversial plans for the expansion of existing communications data retention requirements to other forms of data, including data which the communications provider would not collect in the ordinary course of business. It also makes provision for access to that data by law enforcement and other public authorities. The Bill is designed to address the increased use of new forms of communication which are not under the control of communications providers but of information society service providers, as the latter are not covered by existing data retention legislation.

For more information please go to: <http://www.official-documents.gov.uk/document/cm83/8359/8359.pdf>

To access the Information Commissioner's Office's statement in response to the draft bill please go to: http://www.ico.gov.uk/news/latest_news/2012/statement-ico-response-communications-data-bill-14062012.aspx

Ofcom Business Connectivity Market Review

Ofcom have identified continuing concerns about the extent of competition in the provision of leased lines in the UK and proposes measures to address these in their consultation entitled 'Ofcom Business Connectivity Market Review, Review of the retail leased lines, wholesale symmetric broadband origination and wholesale trunk segments markets' dated 18 June 2012. The Market Review encompasses traditional leased lines and ethernet leased lines, both of which play an important role in business communications services and are used to support a wide variety of applications in the private and public sectors. The demand for leased lines bandwidth has increased steadily. The growth in demand for leased lines capacity seems set to continue as businesses demand more bandwidth, and as providers of mass market broadband services invest in fixed super-fast services and mobile next generation (4G) services supported by leased lines. Modern technologies

are driving down the unit costs of leased lines bandwidth. Ofcom propose to find that BT has Significant Market Power (SMP) in a number of the markets apart from the London area, which it finds to be largely competitive. Charge controls are proposed as remedies for both traditional and ethernet leased lines. Ofcom are consulting on these in the 'Leased Lines Charge Control' (see below). Ofcom review competition in some communications markets periodically, in accordance with the EU regulatory framework which is implemented in the UK by the Communications Act 2003. Ofcom last reviewed these markets in 2007/2008. This consultation closes on 24 August 2012 and Ofcom intend to publish a statement in the first quarter of 2013.

For more information please go to: <http://stakeholders.ofcom.org.uk/binaries/consultations/business-connectivity/summary/condoc1-4.pdf>

<http://stakeholders.ofcom.org.uk/binaries/consultations/business-connectivity/summary/section5-6.pdf>

<http://stakeholders.ofcom.org.uk/binaries/consultations/business-connectivity/summary/section7.pdf>

<http://stakeholders.ofcom.org.uk/binaries/consultations/business-connectivity/summary/sections815.pdf>

Ofcom consultation on leased lines charge control

This consultation entitled 'Leased Lines Charge Control, proposals for a new charge control framework for certain leased lines services' published on 5 July 2012, contains Ofcom's specific proposals for new charge controls for certain leased lines services provided by BT. A leased line is a communications service which provides dedicated transmission capacity between fixed locations, which can be used to carry voice and data traffic. The Business Connectivity Market Review Consultation published on 18 June 2012 set out Ofcom's analysis of competition in the provision of leased lines services in the UK. This analysis indicates that BT has Significant Market Power (SMP) in the provision of a number of wholesale leased lines services. To address this SMP a number of remedies are proposed by Ofcom, including charge controls in some of the relevant markets which Ofcom have identified. Ofcom propose separate charge controls for traditional leased lines and ethernet leased lines, with ethernet leased lines set for a fairly steep reduction in prices. For the few services where Ofcom have found BT to maintain SMP within the London area, Ofcom propose simply a safeguard price cap. This consultation closes on 30 August 2012 and Ofcom will publish a statement in the first quarter of 2013.

For more information please go to: http://stakeholders.ofcom.org.uk/binaries/consultations/llcc-2012/summary/LLCC_2012.pdf

Ofcom consultation on the review of Relay Services

The growth in the availability and use of broadband and mobile data services, particularly email and mobile text messaging, has helped disabled end users to communicate. However, the ability to make and receive telephone calls remains crucially important in today's society. Users with hearing and speech impairments can face barriers when accessing voice telephony. The Universal Service Directive requires EU Member States to take action to secure access to and affordability of voice telephony services for end users with disabilities. Ofcom consulted in July 2011 on changes to the regulatory regime to introduce improvements to the current text relay service, which it called Next Generation Text Relay (NGTR). The result of the responses to this consultation was that Ofcom feel it is necessary to conduct a further consultation. This further consultation entitled 'Review of Relay Services – further consultation' published on 30 May 2012, focuses on:

- 1) Ofcom's assessment of the costs to industry and the benefits to disabled end users of implementing our proposals for NGTR, particularly as regards access by the mobile providers; and
- 2) the criteria and process by which Ofcom propose to approve a relay service.

This consultation closed on 13 July 2012 and Ofcom intend to publish a statement later this year.

For more information please go to: http://stakeholders.ofcom.org.uk/binaries/consultations/relay-services-review-12/summary/text_relays.pdf

Ofcom decision following review of premium rate services

Ofcom published their decision on the application of its analytical framework for regulation of certain premium rate services on 2 July 2012. Following a consultation in July 2011 Ofcom confirmed their view that fixed and mobile portal content services charged to customer's phone bills should no longer be subject to PRS regulation. Ofcom have also decided that PRS bought by Payfroit, a payment mechanism for WAP and web users offered by mobile providers, should continue to be regulated by PhonepayPlus. However, this regulation should be limited in order to be proportionate to and targeted at the limited risks to consumers that Ofcom have identified. Ofcom have amended the PRS Condition to reflect these changes with effect from 1 September 2012.

For more information please go to: <http://stakeholders.ofcom.org.uk/binaries/consultations/review-prs/statement/statement.pdf>

Law Commission consults on reforming Electronic Communications Code

The Law Commission has published a consultation on its proposals for reform of the Electronic Communications Code. The code is applied by Ofcom to certain network operators to give them rights to install and maintain telecoms apparatus on public and private land. The Commission's review of the Code is part of the government's wider review of the communications legislative regime, and the Commission proposes publishing its final report on the Code in the spring of 2013. Responses to the consultation are requested by 28 October 2012 and the Law Commission proposes to publish a final report with its recommendations in the spring of 2013.

For more information please go to: <http://lawcommission.justice.gov.uk/consultations/1863.htm>

Ofcom consultation on fixed narrowband market review and network charge control

Ofcom are undertaking a market review to examine retail and wholesale narrowband fixed telephony services. Ofcom consulted on this matter in June 2012 and sought stakeholders' views about: the proposed scope of their review; and the analytical approach that it should adopt for this review in assessing; and responding to, any finding that an operator has significant market power. This consultation ended on 28 June 2012.

For more information please go to: <http://stakeholders.ofcom.org.uk/binaries/consultations/narrowband-market-review-call/summary/condoc.pdf>

Ofcom Review of Alternative Dispute Resolution Schemes

Ofcom are obliged to keep their approval of alternative dispute resolution schemes under review. In their consultation entitled Ofcom Review of Alternative Dispute Resolution Schemes published on 29 May 2012, Ofcom are proposing to modify the conditions of their approval of the Schemes as allowed under the Communications Act 2003. This would involve the introduction of a new condition requiring the Schemes to adopt a set of Decision Making Principles. The Principles are a set of high level guidelines that will be referred to by decision makers at both Schemes. This consultation ended on 29 June and Ofcom plan to publish a statement shortly.

For further information please go to: http://stakeholders.ofcom.org.uk/binaries/consultations/adr-review-12/summary/ADR_review.pdf

Ofcom consultation on the proposals to make The Wireless Telegraphy (Control of Interference from Apparatus) (the London Olympic Games and Paralympic Games) Regulations 2012

Ofcom published a consultation on 25 April 2012 on the draft regulations to make the Wireless Telegraphy (Control of Interference from Apparatus) (the London Olympic and Paralympic Games) Regulations 2012. The proposed regulations will regulate the intensity of the electromagnetic energy at which electrical and electronic apparatus operates such that it does not cause undue interference with wireless telegraphy apparatus used for public safety purposes within a specified radius of the Games venues. Ofcom intend to bring the new regulations into force before the Games commence in July 2012. The proposed Wireless Telegraphy (Control of Interference from Apparatus) (the London Olympic Games and Paralympic Games) Regulations 2012 are included at Annex 6 of the consultation document.

For more information please go to: http://stakeholders.ofcom.org.uk/binaries/consultations/undueinterference-olympics-2012/summary/condoc_annex.pdf

For the statement published please go to: <http://stakeholders.ofcom.org.uk/binaries/consultations/undueinterference-olympics-2012/statement/statement.pdf>

Ofcom Consultation on the Notice of Proposals to make Wireless Telegraphy Trading and Register Regulations

Ofcom have issued a consultation on the following draft regulations: i) the Wireless Telegraphy (Spectrum Trading) Regulations 2012 (the **Proposed Trading Regulations**) which would revoke the Wireless Telegraphy (**Spectrum Trading**) Regulations 2004; and ii) the Wireless Telegraphy (Register) Regulations 2012 (the **Proposed Register Regulations**), that would revoke and replace the Wireless Telegraphy (Register) Regulations 2004 as amended. The Proposed Trading Regulations would remove the need for Ofcom to consent to a transfer of rights to use spectrum. These draft regulations would also extend the ability to transfer all or part of the rights to use spectrum under a Wireless Telegraphy Act 2006 licence to the maritime and satellite earth station licence classes. These changes would allow licensees the flexibility to transfer unused or underused elements of their spectrum holdings to a third party who could make use of it. The proposals introduce the ability for licensees to transfer all or part of the rights arising by virtue of their Wireless Telegraphy Act licence, but there is no compulsion to do so. Spectrum transfer is not mandatory and therefore Ofcom's proposal would have no impact on those licensees, or their current licence terms, who do not wish to engage in it. This consultation seeks views on whether the proposed regulations correctly transpose the decision already taken by Ofcom and closes on 22 July 2012. Ofcom intend to publish a statement in September 2012.

For more information please go to: <http://stakeholders.ofcom.org.uk/binaries/consultations/wireless-telegraphy-trading/summary/main.pdf>

MEDIA

Ofcom Consultation on the implementation of the Online Infringement of Copyright Order 2012

On 26 June 2012 Ofcom issued a consultation on the implementation of an order to be made by the Secretary of State: The Online Infringement of Copyright (Initial Obligations) (Sharing of Costs) Order (the **Costs Order**). This Costs Order will require Ofcom to set fees payable by copyright owners to internet service providers (ISPs) and to Ofcom if they intend to take advantage of a notification scheme in relation to online infringements of their copyright. The notification scheme will be set out in a code to be made by Ofcom. The code will give effect to provisions of the Digital Economy Act which are intended to reduce online copyright infringement. The costs order will determine who should bear the costs incurred by ISPs in delivering their obligations, by Ofcom in developing the Code and overseeing the scheme, and by the appeals body which will consider subscriber appeals against reports of infringement. The overall framework to be defined by the Costs Order is as follows: copyright owners should bear all of the costs incurred by Ofcom, the majority of costs incurred by the appeals body, and 75% of the costs efficiently and reasonably incurred by Qualifying ISPs in

carrying out their obligations. Other than in relation to the costs of the appeals body, an individual copyright owner's share of the costs should be in proportion to the number of CIRs it proposes to send during a term of operation of the Code, called a notification period. This consultation ends on 18 September 2012 and Ofcom plan to publish a statement by January 2013.

For more information please go to:

<http://stakeholders.ofcom.org.uk/binaries/consultations/onlinecopyright/summary/condoc.pdf>

Ofcom Consultation on the Online Infringement of Copyright and the Digital Economy Act 2010

The Digital Economy Act (DEA) received Royal Assent in April 2010. The provisions in the DEA impose new responsibilities on Ofcom to implement and administer measures aimed at significantly reducing online copyright infringement. These measures form part of a government approach aimed at reducing online copyright infringement through a complementary mix of enforcement, consumer education and encouragement to industry to develop and promote online services offering lawful access to copyright works. The DEA provisions insert amendments to the Communications Act 2003 to create two new obligations for internet service providers. These "initial obligations" are to: notify subscribers if the internet protocol addresses associated with them are reported by copyright owners as being used to infringe copyright; and to keep track of the number of reports about each subscriber, and compile, on an anonymous basis, a list of those subscribers who are reported on above a threshold to be set in the Initial Obligations Code. The DEA provides that the implementation and regulation of the initial obligations must be set out in a code. Ofcom must provide a code in accordance with the requirements of the DEA provisions. This consultation entitled 'Ofcom Consultation on the Online Infringement of Copyright and the Digital Economy Act 2010 – Notice of Ofcom's proposal to make by order a code for regulating the initial obligations' published on 26 June 2012, ends on 26 July 2012 and Ofcom intend to publish a statement by January 2013.

For more information please go to: <http://stakeholders.ofcom.org.uk/binaries/consultations/online-notice/summary/notice.pdf>

Plans to extend local digital radio coverage

The Government, the BBC and commercial operators signed a joint agreement (Memorandum of Understanding) on 2 July 2012 establishing the framework for up to £21 million of new investment in radio infrastructure. Local Digital Audio Broadcasting (DAB) coverage must be increased before any decision on radio switchover can be made. The agreement is in principle to fund the build-out of local DAB to FM equivalences over the next five years, with a commitment to consider further funding if necessary. This paves the way for the launch of at least five new local multiplexes, including in Oxfordshire and Gloucestershire, which will provide new local digital radio services to approximately 1.25 million listeners. The Memorandum of Understanding also confirms the Government's commitment to a decision on radio switchover in 2013. The Government will now ask Ofcom to form a joint planning group, which will be tasked with producing the technical and implementation plans for a radio switchover.

For more information please go to: http://www.culture.gov.uk/news/media_releases/9176.aspx

Ofcom consultation on proposals for access services on non-domestic channels

Ofcom require popular TV channels to provide access services so that people with hearing or visual impairments are able to understand and enjoy television e.g. subtitling, signing or audio description. The feedback that Ofcom have received confirms that these are valued by viewers with sensory impairments. This consultation sought views on how Ofcom proposed to require certain television licensees which serve other European countries to provide access services for the benefit of viewers in those countries with sensory impairments. Ofcom highlighted that they were careful to ensure that the costs that would be imposed on broadcasters are proportionate and consistent with UK and European law. This consultation ended on 11 July and Ofcom plan to issue a statement in October 2012.

For more information please go to: <http://stakeholders.ofcom.org.uk/binaries/consultations/access-services-non-domestic/summary/condoc.pdf>

Ofcom consultation on television multiplex licence renewal

In 2002 Ofcom awarded a Mux B licence under the Broadcasting Act 1996 for the operation of the digital terrestrial television multiplex service 'Multiplex B' to BBC Free-to-View Limited (BFtV). This licence is due to expire in November 2012. Ofcom decided that it would renew BFtV's Multiplex licence and then consulted in June on whether to require additional obligations as part of the renewal. Ofcom did not propose any additional requirements in this consultation and sought views on this proposal. This consultation ended on 21 June 2012 and Ofcom plan to publish a statement shortly.

For more information please go to: http://stakeholders.ofcom.org.uk/binaries/consultations/mux-b/summary/Mux_B_Renewal.pdf

SATELLITE

Reform of the Outer Space Act and concept of unlimited liability

The UK Space Agency has published a consultation dated 31 May 2012 seeking views on whether to cap the unlimited liability requirement currently contained in the UK Outer Space Act 1986 at Euros 60 million for most missions.

The concept of unlimited liability offers little financial certainty when fund raising and, compared with other space faring nations, poses a competitive disadvantage to UK operators. The proposed cap of Euros 60 million will be managed through a requirement for licensees to obtain a policy for third party insurance for the same amount for the launch and in-orbit phases of the mission. The capped liability and insurance requirements could be waived for the in-orbit operation of "Cubesats". Responses to the consultation are to be submitted by 31 August 2012.

For more information please go to: <http://www.bis.gov.uk/assets/ukspaceagency/docs/osa/consultation-reform-of-the-outer-space-act>

POSTAL SERVICES

Ofcom consultation on securing the universal postal service and a safeguard cap for large letters and packets

In March 2012 Ofcom published a statement setting out the decisions it had taken regarding the new regulatory framework for the postal sector. This included the decision to give Royal Mail pricing freedom to allow it to ensure that the universal service becomes financially sustainable, subject to certain safeguards. One of these safeguards was a cap to ensure that vulnerable customers can afford a basic universal service. Ofcom set a 55p cap on the price of a Second Class stamp letter effective from April 2012. This new consultation entitled 'Ofcom consultation on securing the universal postal service - a safeguard cap for large letters and packets' published on 27 April 2012, sets out Ofcom's proposals for the structure and level of the cap on Second Class stamps, large letters and packets up to 2kg.

The consultation ended on 11 June and Ofcom plan to publish a statement in the summer 2012.

For more information please go to: <http://stakeholders.ofcom.org.uk/binaries/consultations/postal-service-letters-packets/summary/condoc.pdf>

Austria

COMMUNICATIONS

Telekom-Control Commission imposes a payment stop for value-added numbers

On 11 May 2012 the Austrian Regulatory Authority (RTR) announced that in response to customer complaints related to possible misuse of the value-added numbers 0900/540517, 0900/540575 and 0900/540573, the Telekom-Control Commission (TKK) made use of its new powers specified in article 24a Austrian Telecommunications Act and issued an official decision imposing a three-month payment stop for the first time. This means that the service provider will receive no payments for calls made by customers to these numbers for three months.

There is reasonable suspicion that calls were randomly made to telephone customers with the aim of inciting them to call these costly numbers, charged at EUR 3.64 a minute. The customers concerned were misleadingly advised that they could only terminate a costly agreement (e.g. an agreement to purchase lottery tickets) by calling these value-added numbers. In reality, such an agreement was never concluded. Nevertheless, the callers were charged up to EUR 50 for such calls by the value-added number provisions.

Bulgaria

COMMUNICATIONS

E-governance project implementation

In May 2012 four agreements with respect to the implementation of the project “Development of Electronic Platform for Administration Services” were signed between leading local companies and the Ministry of Transport and Information Services. The project will be launched on the territory of Sofia municipality and shall enhance its collaboration with more than 30 public registries, such as the Commercial Registry, the Real Estate Registry, etc.

Online support for European Citizens’ Initiative

New amendments were introduced to the Bulgarian Law for Direct Citizen Participation in State and Local Government in accordance with Regulation No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the Citizens’ Initiative. Statements of support will be collected in paper form or electronically. The online collection system shall be monitored by the Minister of Transport and Information Technologies and by duly appointed government officials.

For more information please go to: <http://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=64937>

Decrease in roaming charges

In line with the newly adopted Regulations on roaming charges in the EU, which came into force on 1 July 2012, the Bulgarians shall pay less roaming charges within the borders of the European Union. Under the new rules an outgoing call shall cost BGN 0.68, an incoming call – 0.18 BGN and a text message – BGN 0.21. Regardless of the strong opposition expressed by the Bulgarian mobile operators, they are expected to offer new mobile plans in line with the newly adopted rules.

MEDIA

The Bulgarian Council for Electronic Media proposes amendments to the Radio and Television Act

The purpose of the amendments is to encourage transparency of hidden advertisement and product positioning in media content. Disclosure of a commercial company and its employees shall be allowed in TV and radio productions, as long as no graphic image of the relevant trademark is being exposed. As for product positioning, the proposition is for a new clause for editorial independency to be inserted into the agreements executed between advertisers and media productions.

For more information please go to: <http://www.cem.bg/view.php?id=3205>

Germany

COMMUNICATIONS

Ban on billing and collection in connection with certain claims regarding alleged reverse charge calls imposed

On 8 June 2012 the German Federal Network Agency (Bundesnetzagentur) imposed a ban on billing and collection in connection with certain claims regarding alleged reverse charge calls. The ban was imposed on all network operators and several telecommunications providers.

Since February 2012, consumers in Germany have been receiving calls shown on the display to be originating from call number (0)69 747 362. A recorded message informed them that an international reverse charge call was waiting for them. As is usual in the case of reverse charge calls, the persons called were asked to press key "1" if they wished to accept the call. Should they not wish to accept the call and should they not wish to receive such calls in future, they were requested to press key "2". Upon acceptance of the reverse charge call, it regularly turned out that the call did not involve a call request from abroad. The alleged reverse charge calls are invoiced under product ID 81205. In some instances the calls were also itemised as "reverse charge call" or "Service 0900 Premium Service 58".

The ban on invoicing imposed by the Bundesnetzagentur implies that affected consumers may no longer be charged for that product ID. Should consumers already have received such invoices, the ban on collection comes into force. The amounts claimed may no longer be collected.

For more information please see:

http://www.bundesnetzagentur.de/cln_1911/SharedDocs/Pressemitteilungen/EN/2012/120608AllegedReverseChargeCalls.html?nn=48242

Coverage obligation for 800 MHz spectrum met in two more federal states

As the Bundesnetzagentur announced on 25 June 2012, mobile operators have now met their coverage obligation for 800 MHz spectrum in Saxony-Anhalt and Thuringia. As a result, the three mobile operators Telekom Deutschland GmbH, Vodafone D2 GmbH and Telefónica Germany GmbH & Co. OHG can now make unrestricted use of the 800 MHz spectrum bought at auction in those federal states.

In spring 2010 an auction was held for wireless access spectrum in the 800 MHz, 1.8 GHz, 2.0 GHz and 2.6 GHz bands. At that time, an obligation for the phased rollout of broadband was imposed on the 800 MHz spectrum assignments. Prior to the auction, the federal states had identified towns and districts with little or no broadband coverage, which were grouped into four priority levels depending on their number of inhabitants.

Network operators holding 800 MHz spectrum are required to provide broadband access gradually to the towns and villages in the federal states according to these four priority levels.

The coverage obligation is now met in the following federal states: Baden Württemberg; Bavaria; Hesse; Lower Saxony; North Rhine-Westphalia; Rhineland Palatinate; Saarland; Saxony; Schleswig-Holstein; Saxony-Anhalt; and Thuringia.

Hungary

COMMUNICATIONS

Per-minute tax on phone calls and text messages came into effect from 1 July 2012

A new law accepted in May 2012 by the Hungarian Parliament introduced a HUF 2 per minute tax on telephone calls and HUF 2 per text message from 1 July 2012. The new tax will be collected from the service providers from 1 August 2012. The government expects to collect HUF 44.4 billion per year from this telephone tax. The tax is capped at HUF 400 per month per residential subscriber and HUF 1,400 per month per business subscriber in 2012 and HUF 700 per month per residential subscriber and HUF 2,500 per month per business subscriber as of 1 January 2013. The first ten minutes' worth of phone calls will be exempt from the tax for residential subscribers, and emergency calls and the calling of phone numbers raising funds for charity will also be exempt.

For more information please see our Law-Now article: http://www.law-now.com/DirectMail/%7B8F4918E1-FF05-469B-9EB1-D24B09D3B019%7D_hunewtelecomstaxjun12.htm

NMHH consultation on net neutrality

The National Media and Communications Authority (NMHH) launched a public consultation between 30 May 2012 and 30 June 2012 in order to become aware of the position of the electronic service providers, application developers and users on net neutrality. On the basis of the opinions collected, the NMHH will investigate whether the existing Hungarian regulations regarding net neutrality fit the expectations of the stakeholders. As part of the consultation, stakeholders can discuss how transparent and understandable the description of the traffic management measures is in the service contracts, and what additional information the users may require. Participants have also raised the necessity of the introduction of a uniform service description chart, to be filled in and published by the service providers. The NMHH also considers the net neutrality findings and new guidance for consultation of BEREC.

Significant amendments in the Consumer Protection Act

On 21 May 2012, the Hungarian Parliament accepted extensive amendments to Act CLV of 1997 on Consumer Protection. Companies shall comply with the new rules and modify their internal practices accordingly until 29 July 2012, when the amendment enters into force.

The most important changes are as follows:

- enterprises acting outside the scope of their economical or professional activities will become entitled to consumer protection as well as before consumer arbitration proceedings (*békéltető testületi eljárás*);
- additional provisions will apply to complaint management, such as complaint recording, deadlines for answers, retention periods, opening hours of customer service offices; and
- the procedural rules of consumer protection cases and the sanctioning rights of the Consumer Protection Authority (NFH) are refined.

For more information please see our Law-Now article: http://www.law-now.com/DirectMail/%7BEB1910B7-34D3-4A63-AE21-85EDE4616831%7D_huchangestoconsprotlawmay12.htm

First report from the new data protection authority

The National Data Protection and Freedom of Information Authority (NAIH), the legal successor of the former Information Commissioner, has issued its first report.

The report describes the operation and goals of the new authority, and provides an overview and brief explanation of certain provisions of the new data privacy act (Act CXII of 2011 on Informational Self-Determination and Freedom of Information). The new rules provide that personal data can be processed even if: (i) obtaining consent proves impossible or involves a disproportionate effort; but (ii) the processing of personal data is necessary for the purpose of legitimate interests of the data processor or third parties and such necessity is proportionate to the restriction of privacy. The NAIH confirms that the term “legitimate interests” may be interpreted flexibly, and it also covers legitimate business interests, e.g. payroll outsourcing procedures. The report also emphasises the additional registration obligations in the Data Protection Registry (as introduced by Act CXII of 2011), for example, electronic communications service providers shall register their client-related data processing until 30 June 2012.

Under the new law, NAIH is entitled to impose fines between HUF 100,000 (approx. EUR 370) and HUF 10,000,000 (approx. EUR 37,037); previously the Data Privacy Commissioner had no power to apply such sanctions. The first significant fines of HUF 2,000,000 (approx. EUR 6,660) and HUF 5,000,000 (approx. EUR 16,660) were imposed on financial enterprises (unlawful disclosure of clients’ emails on business-related mailing lists) and an archiving company (improper security measures for document storage).

For more information please go to: <http://www.naih.hu/files/NAIH-2012-Beszamoloja-vegleges-web.pdf>

MEDIA

Amendment to the media related acts adopted

In December 2011 Hungary’s Constitutional Court annulled certain sections of media regulation and also set out an omission of the legislator in two respects. The deadline to find a remedy for these omissions set by the Court was 31 May 2012. As a result the Hungarian Parliament adopted a bill which amended certain legislation on media services and press products which were already in force.

The amended legislation strengthens protection for journalists’ sources. Journalists or editorial boards will not be required to identify sources. Disclosure of the identity of a source will only be justified in the course of criminal proceedings, if the public interest is better served by such disclosure than its non-disclosure, when the information is necessary for investigation of a serious offense and the information cannot be obtained in any other way.

With regard to regulation of content in the printed press and on the internet, the media authority shall not have the power to investigate alleged infringements of human rights, human dignity, privacy and the rights of those making public statements; this is because protection of these rights is already adequately provided for in the Civil and Criminal Codes.

Following a submission to the Constitutional Court by the Commissioner for Fundamental Rights, the powers of the President of the National Media and Communications Authority (NMHH) have also been affected. The President may not have authority in connection with the Media Council, if he or she is not elected head of the Council. The President of the NMHH may not continue in office if Parliament has not elected him or her as head of the Media Council within 30 days of his or her appointment as president.

According to the Constitutional Court the institution of the Media Commissioner with sanctioning powers is an unjustified restriction on the freedom of expression. Therefore the powers of the Media Commissioner have been amended. The Commissioner will continue to have powers equivalent to that of an authority, but they will only remain in relation to electronic communications services. The Commissioner shall have no right

to impose remedies in the area of media services and press products. The Commissioner may not investigate the activities of media content service providers either.

According to the amendments, the number of programmes accessible to those with hearing impairment will increase, for example, sports broadcasts and weather reports will have subtitles or sign language interpretation. The rules on “must-carry” obligation and the related dispute resolution procedure have also been significantly changed.

For more information, please go to: <http://www.kormany.hu/en/news/parliament-adopts-amendments-to-the-media-act>

Public consultation on data provision obligations of media service providers

On 12 June 2012, the National Media and Communications Authority (NMHH) launched a one-day live public consultation on the issues which may arise during the fulfilment of such obligations by the service providers set out in: Act CIV of 2010 on Freedom of the Press and on the Basic Rules Relating to Media Content and Act CLXXXV of 2010 on Media Services and on the Mass Media imposes regular data provision obligations on media service providers.

Italy

COMMUNICATIONS

The Italian Communications Authority to modify the Wholesale Line Rental (WLR) standards.

On 15 May 2012 the Italian Communications Authority (AGCOM) launched a consultation on possible changes to the Wholesale Line Rental (WLR) standards for the POTS and ISDN services for the year 2012. This consultation ends within 60 days from the date of publication.

For more information please go to: <http://www.agcom.it/default.aspx?DocID=8850>

Russia

SATELLITE

Good news for foreign FSS operators in Russia

On 16 March 2012, the Russian Frequency Commission adopted a decree (Decree No. 12-14-05) setting up a simplified procedure for the allocation of certain frequency bands for the ground stations of satellite systems operating via foreign satellites.

In accordance with the Decree, entities may use the bands 5775-6525 MHz, 13750-14500 MHz (Earth to space) and 3450-4200 MHz, 10950-11200 MHz, 11450-11700 MHz, 12500-12750 MHz (space to Earth) for ground stations of satellite systems of fixed satellite services operating via foreign satellite networks without obtaining an individual decision of the Frequency Commission, if certain requirements set out by the Decree are met. The Decree is applicable to all foreign satellite operators and their local Russian partners/network operators.

This simplified procedure is, however, introduced on a temporary basis for a period until 16 March 2015. By that date the Frequency Commission will have to decide on whether this temporary procedure will be extended.

Slovakia

COMMUNICATIONS

Slovakia plans e-auctions for mobile frequencies

The Slovakian Telecommunications Authority is planning to launch e-auctions for free mobile frequencies in the 800, 1800 and 2600 MHz spectrum. While some of the auctions will likely be designed to fit the incumbents, it is expected that this move will foster competition on the mobile market by bringing the fourth mobile operator to Slovakia. There is a lot of work to be done before the auctions may start, however. An amendment to the Act on Electronic Communications should be adopted shortly to enable the regulator to use this way of public tendering. Prior to the auctions, the regulator will have to launch a tender to find a consultant for spectrum valuation and management of the auctions. It is therefore expected that the auctions will not start before January 2013.

Spain

COMMUNICATIONS

The Ministry of Industry, Energy and Tourism receives the Expert Group's recommendations on the Spanish Digital Agenda

The Ministry of Industry, Energy and Tourism has received the Expert Group's recommendations on the Spanish Digital Agenda. The report highlights the importance of information and communication technologies (ICT) for economic recovery.

The Expert Group warns that Spain risks not harnessing the potential of new digital technologies and they recommended encouraging the public to participate in drawing up the Digital Agenda.

The OECD acknowledges that progress made in Spain in terms of electronic infrastructures and administration are key to growth

The Organisation for Electronic Co-operation and Development report gives a positive assessment of a number of initiatives relating to radio-electric spectrum and common telecommunications infrastructures for buildings. The study concludes by proposing recommendations and future lines of action in order to meet the Digital Agenda for Europe targets and to get back on the road to economic growth.

The CMT improve the technical conditions for the provision of broadband services by alternative operators

The Council of the Market Commission (Comisión del Mercado de las Telecomunicaciones) (CMT) has approved an update of the revised reference unbundled offer, known as OBA, which increases the modalities and services that alternative operators have available for connecting their own network to Telefónica where they are co-located (disaggregating loop) to provide broadband services.

This measure aims to reduce costs, improve efficiency and increase the presence of alternative operators throughout the territory. This will ultimately provide new broadband offers to consumers with competitive prices, greater coverage and more advanced services.

This measure is connected to the recent reduction of 14% in wholesale prices for broadband.

The CMT approves final regulations for wholesale mobile termination rates

The CMT Board has given its final approval to regulations for termination rates on mobile networks. The final glide path (scaled reduction in prices) adopts the proposal made in the Resolution of 30 March 2012, which brought the deadline for lowering wholesale rates forward.

The schedule for reducing mobile network termination rates came into effect on 16 April 2012 (after a precautionary measure was approved); with the target rate due to be reached in July of 2013. Wholesale rates were already cut by close to 15% in April and will be reduced further in six-monthly steps.

The CMT approves regulations to reduce the fixed portability period to one working day

The Board of the CMT has approved the new technical specifications that will permit wholesalers to reduce fixed telephony portability periods (from the current five working days) to one working day. Operators must implement the new fixed portability procedures before 1 July 2013.

With the new procedure for fixed portability the subscriber may still ask the operator to carry out the portability at a later date. The recipient operator (to which the user will go) will also be required to inform users of the deadline for them to cancel portability, their request being made through the recipient operator.

If the fixed telephony portability includes with it the change of provider of broadband, the total period from the subscriber making the request to the change of operator being made effective may be longer. In this case, number portability will be carried out once the network infrastructure is prepared. It is important to note that when the process includes a broadband service, prior to implementation of number portability, the two operators involved (one losing and one gaining the customer) must coordinate to carry out work together at the local exchange.

At the same time that it approved the new technical specifications for portability, the CMT decided to initiate a procedure to reduce wholesale broadband delivery times. Users may thus see a reduction in the total period if they contract for broadband and fixed telephony.

Furthermore, in order to prevent frauds such as slamming (new connections in a company not requested by the customer) when an operator believes that its customer is the victim of an unrequested portability, it may, with the subscriber's authorisation, require the recipient operator to cancel the portability in progress. Customers may give their consent by signed written communication, verbally with verification by a third party or by electronic signature, etc.

Last year, the CMT approved the procedures for carrying out mobile portability in one working day, which will be available from 1 June 2012.

Spain is one of the European countries with the highest number of portabilities. In 2011, there were 1.97 million numbers churned in fixed telephony and 5.58 million in mobile telephony. Spain, France, the United Kingdom and Denmark are the only countries in the EU, to date, to have approved procedures for number portability to be carried out in one working day, both for mobile telephony and fixed telephony.

The CMT reduces the ADSL wholesale price by 14%

The CMT has approved a precautionary measure to reduce by 14% the wholesale price that Telefónica charges alternative operators for using its network when they offer broadband services to their customers. This reduction affects the wholesale indirect accesses known as GigADSL and ADSL-IP, by which Telefónica's rivals can offer ADSL services throughout the country.

The CMT last revised wholesale prices for indirect access in September 2009. The CMT has found that the cost to Telefónica of offering these services to its competitors has now fallen and, consequently, the prices now being applied are not up to date with respect to current references. Improvements in network

management and an increase in connections functioning through the Telefónica network have led to a fall in these costs to Telefónica.

Switzerland

COMMUNICATIONS

Partial revision of the Radio and Television Act

The Swiss Federal Office of Communications announced on 9 May 2012 that a consultation procedure on the partial revision of the Swiss Radio and Television Act (RTVA) will take place from 10 May 2012 until 29 August 2012.

The revised RTVA shall implement an appropriate and practical fee system to secure the public service in Switzerland. The current reception fee shall be replaced by a universal radio and television fee which is to be paid by every household and business and will no longer be linked to the existence of a reception device.

In addition, increased flexibility and a simpler licensing procedure are planned for private radio and television stations. Local and regional radio and television licences may only be granted if the diversity of opinion and offerings is not jeopardized. In order to simplify the issuing of licences, this requirement shall no longer be checked before the grant of a licence.

For more information please go to:

<http://www.bakom.admin.ch/dokumentation/medieninformationen/00471/index.html?lang=en&msg-id=44474>

MEDIA

Revision of the Radio and Television Act: Federal Council opens consultation procedure

The revision of the RTVA (as noted above) also focuses on the replacement of the current reception fee by a universal radio and television fee. It is to be paid by every household and business and will no longer be linked to the existence of a reception device. According to Swiss authorities the reason for the change is that, devices such as smart phones, computers and tablets allow radio and television reception. What constitutes a reception device is no longer clear. The administrative costs are high and it requires checks in households and businesses. In addition, the majority currently cover the missing revenue from fee dodgers – persons consuming radio and television illegally without paying fees. The new universal fee solves these problems. This approach is similar to recent legal amendments in other European states, for example in Germany.

For more information please go to:

<http://www.bakom.admin.ch/dokumentation/medieninformationen/00471/index.html?lang=en&msg-id=44474>

Europe

COMMUNICATIONS

Revised roaming regulation published in the official journal

On 30 June 2012 Regulation 531/2012 on roaming on public mobile communications networks within the EU was published in the official journal. This repeals the former Roaming Regulation 717/2001. The new Roaming Regulation requires mobile network operators (MNOs) to meet all reasonable requests for wholesale roaming access. From 1 January 2013 MNOs must publish a reference offer, taking into account the Body of European Regulation of Electronic Communications (BEREC) guidelines. From 1 July 2014 domestic

providers must enable their customers to access regulated voice, SMS and data roaming services, provided as a bundle by any alternative roaming provider. The new Regulation progressively reduces the retail price caps on voice and SMS calls and a new retail cap on data services has been introduced. Wholesale price caps for voice, SMS and data will also be progressively reduced. The new Roaming Regulation also contains measures to ensure transparency of roaming charges.

For more information please go to:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:172:0010:0035:EN:PDF>

SATELLITE

EU Space Industrial Policy

The European Commission has recently released a draft EU Space Industrial Policy to support the development of the sector and foster economic growth, encompassing both the space manufacturing sector and also services. The policy would be centred on five objectives:

1. establishment of a coherent regulatory framework;
2. development of a competitive, solid, efficient and balanced industrial European base supporting SME participation;
3. support for the worldwide competitiveness of the European space industry;
4. development of markets for space applications and services; and
5. ensuring technological non-dependence and independent access to space.

The measures envisaged by the Commission for the space industrial policy are set out in the Annex to the communication. These include to:

“Propose a Directive on certain aspects that have an impact on the emergence of a single market for space products and services such as: obligation of insurance, registration and authorisation of space activities, sanctions, environmental issues;

Propose a Regulation on EU GNSS third party liability”.

The Commission also notes that EU intervention needs to be assessed in relation to dual-use export control, spectrum policy and commercial spaceflight.

UNITED KINGDOM**Chris Watson**

Partner, Head of TMT
 T +44 (0)20 7367 3701
 M +44 (0)77 6837 7443
 E chris.watson@cms-cmck.com

Joanne Wheeler

Partner, Telecoms and Satellite
 T +44 (0)20 7367 3723
 M +44 (0)78 6652 7759
 E joanne.wheeler@cms-cmck.com

AUSTRIA**Egon Engin-Deniz**

Partner
 T +43 1 40443 1550
 E egon.engin-deniz@cms-rrh.com

BELGIUM**Tom Heremans**

Partner
 T +32 2742 6973
 E tom.heremans@cms-db.com

BULGARIA**David Butts**

Partner, Head of CMS International Head of Corporate M&A
 T +359 2 921 9948
 E david.butts@cms-cmck.com

Veliko Savov

Associate, Telecoms
 T +359 2 921 99 56
 E veliko.savov@cms-cmck.com

CHINA**Samuel Yang**

Senior Associate, Telecoms
 T +86 10 6563 9970
 E samuel.yang@cmslegal.cn

CZECH REPUBLIC**Tomáš Kruták**

Partner

T +420 2 210 98 834

E tomas.krutak@cms-cmck.com

FRANCE**Anne-Laure Villedieu**

Associate
 T +33 147 38 40 19
 E anne-laure.villedieu@cms-bfl.com

GERMANY**Ralf Dierck**

Partner, TMT
 T +49 8923 807215
 E ralf.dierck@cms-hs.com

Jens Neitzel

Partner, Regulatory and Competition
 T +49 89 23807 301
 E jens.neitzel@cms-hs.com

Pietro Graf Fringuelli

Partner, Media
 T +49 221 7716 165
 E pietro.fringuelli@cms-hs.com

HUNGARY**Dóra Petrányi**

Partner
 T +36 1 483 4820
 E dora.petranyi@cms-cmck.com

ITALY**Paolo Scarduelli**

Partner
 T +39 0248 011 171
 E paolo.scarduelli@cms-aacs.com

NETHERLANDS**Simon Sanders**

Attorney at law, Telecoms
 T +31 30 2121 462
 E simon.sanders@cms-dsb.com

POLAND**Ireneusz Piecuch**

Partner
 T +48 22 520 5585

E ireneusz.piecuch@cms-cmck.com

Tomasz Koryzma

Partner
 T +48 22 520 555
 E tomasz.koryzma@cms-cmck.com

ROMANIA**John Fitzpatrick**

Partner, Head of CEE TMT Practice Group
 T +40 21 407 3827
 E john.fitzpatrick@cms-cmck.com

Marius Petroiu

Senior Associate
 T +40 21 407 3 889
 E marius.petroiu@cms-cmck.com

Adina Calfa

Associate, Telecoms
 T +40 21 407 3 871
 E adina.calfa@cms-cmck.com

RUSSIA**David Cranfield**

Partner, Corporate
 T +7 (495) 786 4030
 E david.cranfield@cmslegal.ru

Maxim Boulba

Partner, Telecoms, Regulatory and IP
 T +7 495 786 4023
 E maxim.boulba@cmslegal.ru

SERBIA**Radivoje Petrikić**

Partner
 T +381 11 3208900 / +43 1 40443 1650
 E radivoje.petrikic@cms-rrh.com

Stojan Semiz

Partner
 T +381 11 3208900
 E stojan.semiz@cms-rrh.com

SLOVAKIA**Ian Parker**

Partner
 T +421 (0) 2 32 333 498
 E ian.parker@cms-cmck.com

SLOVENIA**Aleš Lunder**

Partner
 T +386 1 620 5210
 E ales.lunder@cms-rrh.com

SPAIN**Javier Torre de Silva y López de Letona**

Partner
 T +34 91 451 93 21
 E javier.torredesilva@cms-asl.com

SWITZERLAND**Alain Raemy**

Partner
 T +41 44 285 11 11
 E alain.raemy@cms-veh.com

UKRAINE**Adam Mycyk**

Partner/International Manager
 T +380 44 391 3 702
 E adam.mycyk@cms-cmck.com

Olexander Martinenko

Partner
 T +380 44 391 3 704
 E olexander.martinenko@cms-cmck.com

Olga Belyakova

Senior Lawyer
 Telecoms, Competition and Regulatory
 T +380 44 391 3377
 E olga.belyakova@cms-cmck.com

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